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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,857	11/16/2000	William L. Jansen	44439.1.8.1	5894
7590	03/23/2006		EXAMINER	VAN BRAMER, JOHN W
R Lewis Gable Cowan Liebowitz & Latman PC 1133 Avenue of the Americas New York, NY 10036-6799			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/714,857	JANSEN ET AL.	
	Examiner John Van Bramer	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 January 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,8,14,15,18,20,22,23 and 25-37 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1,8,14,15,18,20,22,23 and 25-37 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 12, 2006 has been entered.

Response to Amendment

2. The amendment filed on January 12, 2006 has been considered but is ineffective to overcome the Postrel (U.S. Patent Number: 6,594,640) reference. The amendment cancelled claims 2-7, 9-13, 16, 17, 19, 21, and 24. The amendment added claims 33-37 and amended claims 1, 8, 14, 15, 18, 20, 22, 23, 25, 27, 28, and 30-32. The currently pending claims considered below are Claims 1, 8, 14, 15, 18, 20, 22, 23, and 25 – 37.

Claim Objections

3. The amendment filed on January 12, 2006 corrected the minor deficiencies in Claim 14 as objected to in paragraph 4 of the July 20, 2005 Office Action. Therefore, the Examiner hereby withdraws that objection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 8, 14, 15, 18, 20, 22, 23, and 25-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Postrel (6,594,640).

Claim 1: Postrel discloses a computerized method of tracking and using first and second point-to-credit conversion rates to convert respectively a user's first and second loyalty program award points to system-wide credits , said method comprising the steps of

- (a) Obtaining the number of loyalty program award points awarded to a user under the first and second loyalty programs, the first loyalty program points differing in value from the second loyalty program points; (Col 1, lines 14 – 29 and Col 3, lines 30 – 40 and 58 – 60)
- (b) Using the first and second point-to-credit conversion rates to convert respectively the user's first and second loyalty program award points into system-wide credits, each of the system-wide credits being of a common value; (Col 3, lines 30 – 40; Col 9, lines 10 – 12; and Col 10, lines 18 – 20)
- (c) Providing to the user on-line access to at least one vendor that provides discounts for its products and/or services based on the number of system-wide credits that a user has; (Col 7, lines 1 – 41)

- (d) Enabling the vendor to determine for each of its products and/or services the number of system-wide credits required for the user to select and acquire the selected one of the vendor's products and/or services, and the amount of the discount off of the price of the selected one of the products or services; (Col 7, lines 1 – 41) and
- (e) Enabling the vendor to apply the discount to the price of one of the products or services selected by the user if the user has accumulated at least the number of system-wide credits set by the vendor. (Col 7, lines 1 – 41)

Claim 8: Postrel discloses the method of claim 1 further comprising the step of updating the number of the user's system-wide credits after the purchase of a product and/or service by the user. (Col 6, lines 1 – 52 and Col 7, lines 25 – 41).

Claim 14: Postrel discloses the method of claim 1 further including the step of displaying the current number of the user's system-wide credits to the user. ((Col 8, line 65 through Col 9, line 1)

Claim 15: Postrel discloses the method of claim 1 further comprising the steps of updating the number of the points of at least one of the user's first and second loyalty programs. (Col 7, lines 25 – 41)

Claim 18: Postrel discloses the method of claim 33 including the further steps of providing the information regarding the products and/or services for sale to the user

via communication with the one vendor of the products or services. (Col 7, lines 1 – 10)

Claim 20: Postrel discloses the method of claim 33 including the further step of allowing the user to register with at least one of the plurality of loyalty programs as a member via an on-line registration form. (Col 6, lines 10 – 12 and Col 8 lines 4 – 26)

Claim 22: Postrel discloses the method of claim 33 wherein the step of converting the user's award points into the system-wide credits comprises calculating from the user's award points in each of the first and second loyalty programs a proportionate number of the system-wide credits (conversion rate) (Col 9, lines 9 – 12 and Col 10, lines 18 – 20).

Claim 23: Postrel discloses a computerized system for managing a plurality of loyalty programs utilizing the internet to accumulate the award points issued by the plurality of loyalty programs and to redeem the award points for items as selected by a user, the award points of at least one of the plurality of loyalty programs differing in value from the award points of another loyalty program of the plurality, said system comprising:

- (a) Means for converting the user's award points issued by the plurality of loyalty programs into system-wise credit, each credit being of a common value;

(common credits) (Col 3, lines 30 – 40; Col 9, lines 10 – 12; and Col 10, lines 18 – 20)

- (b) A credits database for storing the balance of each of the system-wide credits for each user associated with at least one of the plurality of loyalty programs; (reward exchange account) (Col 6, lines 1 – 52)
- (c) A first interactive communication means connected to said credits database; (Figure 5, and Col 5, lines 3 – 60)
- (d) A second interactive communication means connected to at least one of a plurality of vendors of items offered to the user to enable the user to select at least one of the items; (Figure 5 and Col 5, lines 3 – 60) and
- (e) Means for enabling the one vendor to access via said first interactive communication means at least one of the balances of the system-wide credits stored in said credits database, whereby the one vendor can control the number of the one user's balance of system-wide credits that is required to enable a transaction involving the acquiring of selected items offered to the one user. (Col 5, lines 3 – 60)

Claim 25: Postrel discloses the computerized system of claim 23 further comprising a plurality of interactive communication means connected to at least one of the plurality of vendors for distributing to the user the items offered for exchange by the one vendor. (Col 5, lines 3 – 50)

Claim 26: Postrel discloses the computerized method of claim 1, wherein the user is enabled to receive loyalty program award points from a selected one of the plurality of loyalty programs. (Col 7, lines 45 – 61)

Claim 27: Postrel discloses the computerized system of claim 23, wherein there is included means for enabling the user to select the number of system-wide credits from each of the loyalty programs and to redeem the items as selected by the user. (Col 7, line 1 through Col 8, line 3)

Claim 28: Postrel discloses the computerized system of claim 23, wherein there is included a plurality of loyalty program databases, each database associated with a corresponding one of the plurality of loyalty programs and includes a plurality of files, each file storing a point balance for a corresponding one of the users. (Col 7, line 1 through Col 8, line 3)

Claim 29: Postrel discloses the computerized system of claim 23, wherein the vendor is enabled to determine whether a user's transaction is eligible to be exchanged for system-wide credits. (Col 7, lines 1 – 41)

Claim 30: Postrel discloses the computerized system of claim 23, wherein there is included means for enabling each of the plurality of vendors to determine the

number of system-wide credits for which an item is eligible to be exchanged. (Col 7, lines 1 – 41)

Claim 31: Postrel discloses the computerized system of claim 23, wherein there are means to enable the vendor to determine the number of system-wide credits that are required to achieve a desired discount for the user. (Col 7, lines 1 – 41)

Claim 32: Postrel discloses the computerized system of claim 23, wherein there is included a user terminal for displaying to the user the number of credits needed to satisfy a transaction proposed by the user. (Col 8, line 65 through Col 9, line 1)

Claim 33: Postrel discloses a computerized method of tracking and using first and second points-to-credits conversion rates to convert respectively a user's first and second loyalty points to system-wide credits, each system-wide credit being of a common value, whereby the user can select and request at least one item offered by at least one vendor, said method comprising the steps of

(a) Obtaining the number of loyalty program award points awarded to a user under each of the first and second loyalty programs, the first loyalty program points differing in value from the second loyalty program points; (Abstract, Figure 5, Col 1, lines 14 – 29, and Col 3, lines 30 – 40 and 58 – 60)

(b) Using the first and second points-to-credit conversion rates to convert respectively the user's first and second loyalty program award points to

system-wide credits; (Abstract, Figure 5, Col 1, lines 14 – 29, and Col 3, lines 30 – 40 and 58 – 60)

(c) Transmitting to the one vendor a request from the user for the one requested item; (Col 7, lines 1 – 41) and

(d) Enabling the one vendor in its sole discretion to respond to the item request to determine the amount of a discount from the cost of the requested item independent of the number of system-wide credits accumulated by the user.

(Col 7, lines 1 – 41)

Claim 34: Postrel discloses the method of claim 33; further comprising the step of enabling the one vendor to determine for each of its items the predetermined number of system-wide credits required to permission the user to request the corresponding item. (Col 7, lines 1 – 41)

Claim 35: Postrel discloses the method of claim 34, further comprising the step of enabling the one vendor in it sole judgment to set the predetermined number of system-wide credits required to permission the user to request the corresponding item. (Col 7, lines 1 – 41)

Claim 36: Postrel discloses the method of claim 35, further comprising the step of enabling the vendor to access the number of system-wide credits accumulated by the user and, if the number of system-wide credits accumulated by the user is not

less than the predetermined number of system-wide credits, permissioning the one vendor to enable the user to transmit to the one vendor the user's request for the corresponding item. (Col 7, lines 1 – 41)

Claim 37: Postrel discloses the method of claim 36, further comprising the step of applying the predetermined discount to the price of the one item selected by the user. (Col 10, lines 37 – 44)

Response to Arguments

6. Applicant's arguments filed January 12, 2006 have been fully considered but they are not persuasive. The applicant argues that Postrel does not teach the use of first and second loyalty programs of different values as well as system wide credits. However, as recited in the previous office action, both of these features are disclosed in the Postrel Patent. The abstract of the Postrel patent indicates that "a user earns reward points from a plurality of independent reward points issuing entities". This is the first indication in the teachings of Postrel that there are "first and second loyalty programs of different values". Since these reward point issuing entities are all independent, they develop their own reward point systems and as a result the reward points in each independent entity will have different values. In regards to the assertion that there is no disclosure of system wide credits in the teaching of Postrel, the abstract in combination with Figure 5 directly teach such subject matter. Postrel states in the abstract that "On selective request by the user, a trading server accumulates some or all of the user's earned reward points from the

reward servers and credits the accumulated points into a single reward exchange account associated with the user" and Figure 5 discloses that the system uses both "Merchant Conversion Rates" and "Reward Server Conversion Rates". Therefore, someone who merely reads the abstract and glances at the figures provided in the teachings of Postrel would understand that there are a plurality of different loyalty programs that each operate independently. Additionally, they would learn that the points earned in each of these independent loyalty programs could be converted into system wide credits that can be later converted into loyalty points specific to any participating program.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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